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RE: Applicants: Wayne Thompson, et al.

Case No.: 21494YP

Serial No.: 10/568,470

Filed: February 14, 2006

Title: 4-CYCLOALKYLAMINOPYRAZOLO PYRIMIDINE
NMDA/NR2B ANTAGONISTS

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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants:	Wayne Thompson et al.		Art Unit:
Serial No.:	10/568,470	Case No.: 21494YP	1624
Filed:	February 14, 2006		Examiner:
For:	4-CYCLOALKYLAMINOPYRAZOLO PYRIMIDINE NMDA/NR2B ANTAGONISTS		B. Kifle

Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

SUPPLEMENTARY RESPONSE

Sir:

This is a supplementary response to the Office Action mailed December 11, 2007, and is submitted at the Examiner's request.

The undersigned wishes to thank the Examiner for the courtesies extended during the telephone conference on June 23. During the teleconference, the Examiner questioned whether the species recited in independent claim 18 are encompassed by the genus recited in claim 1. As explained during the telephone conference, the claim 1 genus does not encompass the species recited in claim 18. The claim 18 species cover compounds wherein Z is O, Y is an alkyl group substituted with hydroxyl, and R¹ is phenyl (substituted with methyl or fluoro). Claim 1 does not cover compounds wherein Y is an alkyl, substituted with hydroxyl. The claims permit Y to be R³, and R³ is identified as C₀₋₆ alkyl, but the R³ description of claim 1 does not permit hydroxyl substitution.

The Examiner asserted that since the compounds of claim 18 are outside the genus of claim 1, may not have been encompassed by the Examiner's search. The Examiner also questioned whether the claim 18 species satisfy the utility requirement. At the Examiner's request, the applicants submit this paper in support of the argument that the claim 18 species was encompassed by the Examiner's search, and do meet the utility requirement.

With regard to the search, the Examiner's search notes indicate that the search did encompass compounds of the type recited in claim 18, in which Z is O and Y is an alkyl group substituted with hydroxyl. See, for example, the compounds 847415-63-8, 847415-65-0, 847415-66-1 and 847415-78-5

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(from International Application Publication No. WO 2005/019221) all of which were identified in the Examiner's search papers. Thus, the search encompasses the claim 18 compounds.

With respect to the utility requirement, note that the specification includes the recited species, at Examples, in original claim 6 and in Examples 68-71. Since they are included in the specification, which is directed to "4-cycloalkylaminopyrazolo pyrimidine NMDA/NR2B antagonists," the claim 18 species have the asserted utility. The statement of utility at page 17 of the specification, that "the compounds of this invention exhibit IC₅₀ and K_i values of less than 50 μ M in the functional and binding assays," is plainly directed to all exemplified species of the application. There are additional statements in the specification of the utility for treating various disorders associated the NMDA/NR2B antagonism (see, for example, pages 17-18 of the specification).

In view of the foregoing, it is believed that claim 18 is not indefinite, and is now in condition for allowance.

Favorable action is earnestly solicited.

Respectfully submitted,

By 
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Date: June 26, 2008